



How Should State and Local Governments Respond to Illegal Retail Cannabis?

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Key Points

- The legalization of cannabis, rather than sidelining the black market, has fueled it, providing cover to illicit cannabis enterprises that often undercut the legal market on price and accessibility.
- State policies, such as high or complex cannabis taxes, scant issuance of licenses for legal operation, and widespread local “opt-outs,” play a key role in keeping the legal market from outcompeting illegal alternatives.
- The treatment of alcohol and cigarettes may be better models: States should allow legal retail to proliferate to minimize the advantages illicit operators now enjoy.
- At the same time, as with tobacco, public health authorities should mount education campaigns to minimize marijuana use, in light of its demonstrated dangers.

Legal cannabis has become a fact of life in much of the United States. The District of Columbia and 24 states now permit the sale of recreational marijuana; they, and 14 additional states, also permit marijuana sale for supposedly medical purposes. Of course, the Food and Drug Administration has not actually approved marijuana for treating any disease; in fact, the Controlled Substances Act classifies marijuana as a Schedule 1 drug “with no currently accepted medical use and a high potential for abuse.”¹ Legalization was largely prompted by the reality that millions of Americans purchased and used marijuana illegally. The imprisonment of marijuana consumers is now widely viewed as disproportionate or even unjust.

Legal cannabis was meant to address both aspects of the situation—to recognize cannabis use as an individual choice for adults, similar to alcohol and tobacco use, and replace the illicit market with a legal and regulated one, sidelining criminal activity and ensuring the sale of unadulterated cannabis products.

That legalization process has not, however, gone according to plan. States require licenses for legal sale while releasing a limited number of them. Local option laws permit municipalities to prohibit cannabis sale in their jurisdictions; in New York and California, cannabis sales are still illegal in most localities. State taxes, set high to raise substantial state revenue, have pushed up legal retailers’ prices, making them more expensive than their illegal competitors. Thus, the black market for cannabis products—not only “flower,” the smokable cannabis plant, but also cannabis-infused edible goods, tinctures, oils, and more—has continued and grown.

In New York City, as of November 2023, just 25 legal licensees, the first of which opened a full two years after cannabis was legalized, competed with an estimated 1,500 unlicensed sellers, many of them corner-store bodegas augmenting their revenue with illegal pot sales.² In California, about two-thirds of marijuana purchases are in the black market.³

Legalization makes it harder for police to distinguish illegal growers and traffickers from legal enterprises and easier for storefronts to hide in plain sight by pretending to be licensed businesses. It also encourages consumers to think the marijuana products they purchase are standardized and therefore safer than they actually are.⁴ Broadly, the proliferating black-market cultivation, distribution, and sale of cannabis threatens to undermine the rule of and respect for law and public order, an especially acute problem in major cities where demand is concentrated.

This report explores policy and law enforcement alternatives for bringing legal order to the cannabis market. To do so, it draws a historical comparison between the modern day and the period beginning in 1933 after the end of the prohibition of alcohol. Prohibition began in 1918 and featured an extensive black market of bootleggers and speakeasies—similar to today’s illegal producers and retailers. Post-Prohibition, states and localities adopted a range of approaches that over time marginalized the illegal market.

This report explores applying such approaches to the cannabis market. It also explores the parallel between the cannabis market and the legal market for tobacco products. The approaches discussed below range from a crackdown on black-market cannabis to a sharp increase in the number of outlets for legal sale.

The Black Market’s Extent

The extent of the black market for cannabis products is notable. As mentioned above, in California, “2 out of every 3 cannabis purchases are made in the illicit market. . . . Legal sales have been on a two-year slide.”⁵ This is the nation’s largest cannabis market. Unlicensed sellers there have even advertised their wares in local newspapers. Nationwide, illegal sale is so common that Weedmaps, a website used to find places to buy cannabis, includes black-market outlets, despite ongoing pressure from authorities to delist them.⁶

Moreover, illegal cultivation operations have become similarly widespread. One hint of this is when states grow far more cannabis than their populations will likely consume legally: Marijuana growers in Oklahoma are “producing 64 times more cannabis than is needed to meet demand for legal marijuana within the state, according to research published in June [2023] by

the Oklahoma Medical Marijuana Authority.”⁷ By one count, Oklahoma had “more than 9,000 licensed cannabis farms by the end of 2021, exceeding the number in California.”⁸ Because the state charged relatively low fees for licensing and offered a simple approval process, it was an attractive place for criminal enterprises to get licensed.⁹ (As a result, Oklahoma Gov. Kevin Stitt put a moratorium on such licenses in 2022.)¹⁰ Similarly, illegally cultivated cannabis from growing sites in northern California has flooded Oregon and Washington.¹¹

Knowing the reasons for the persistence of black-market cannabis is important for understanding prospective approaches to restraining it. There are four major explanations. Any regulatory or law enforcement approaches to reining in the black market must contend with all these factors.

State Taxes on Legal Cannabis. State taxes make legal cannabis products more expensive than their black-market competitors: One study of relative prices in California found that legal retailers charged between 6.1 percent and 19 percent more than illegal sellers did, depending on the product.¹² Even assuming many consumers would prefer to purchase legal products, a significant price differential can undermine that preference.

Insufficient Licensing. In some states—notably New York and California—legalization of marijuana use did not include widespread licensing. In New York, the government sought to grant licenses first to groups said to be disadvantaged by the previous enforcement regime, such as drug dealers who had been imprisoned. Identifying and assisting such pot entrepreneurs delayed licensing so greatly that the first licensed retailer in the state opened a full two years after recreational cannabis was legalized.¹³

Local Option Laws. Local option laws permit municipalities to bar retail marijuana outlets. In California, 61 percent of counties do so, making legal purchase distant and difficult and driving illegal purchasing.¹⁴

The Size of the Black Market. The sheer extent of the black market has swamped law enforcement’s capacity to cope with it. Concern about the so-called mass incarceration of low-level drug dealers has limited law enforcement to civil penalties such as fines rather than

criminal prosecutions. Penalties for violating licensing laws seem to be less of a deterrent than arrest and time in prison would be.

In California, which has long fought illegal marijuana growers and sellers, retailers that authorities raid often immediately restart operations, and proprietors of these businesses who are served with court dates ignore them, expecting their cases to go nowhere.¹⁵ In Colorado, the first state in the nation to legalize recreational marijuana, extensive illegal indoor cannabis growing sparked a federal investigation that “led to 250 homes and businesses being raided across the Front Range and dozens of people arrested. Authorities seized more than 80,000 marijuana plants and nearly \$2.2 million along with gold bars, jewelry and sports cars.”¹⁶ The *Los Angeles Times* estimated based on satellite data that 25 million square feet of illicit greenhouses are in California alone.¹⁷

The Prohibition Precedent

In 1919, the 18th Amendment to the US Constitution was ratified. It specified that “the manufacture, sale, or transportation of intoxicating liquors within, the importation therefore into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.”¹⁸ Thus was born Prohibition—and the extensive and ubiquitous provision of illegal liquor by so-called bootleggers.

Rumrunners brought in their products from Canada and the Bahamas. As Daniel Okrent writes in his history of the era, legendary gangsters such as Lucky Luciano and Meyer Lansky “rose to prominence on a tide of illegal liquor.”¹⁹ Okrent reports: “Bootleggers . . . were running the stuff across rivers and lakes and land borders.”²⁰ As with cannabis, consumer demand overwhelmed the taint of illegality, as customers from all socioeconomic strata rushed to purchase bootlegged whiskey.

Replacing these vast illegal networks with a legal system regulating the sale of alcoholic beverages was not a simple task. With Prohibition’s repeal, that task was delegated to state governments, just as cannabis regulation is now. Reflecting the wide range of public opinion—before Prohibition, the states had been categorized as “wet” or “dry,” just as they would later be

classified as “red” or “blue”—a wide range of regulatory regimes emerged.

As *United States News* reported just a month before the end of Prohibition,

It is a situation that finds nine States ready with experimental control plans, four more about ready since their legislatures are debating control plans, and a dozen or more likely to act within a month or two after the 18th Amendment actually has been erased from the Constitution.²¹

The same account could well apply to the cannabis situation currently:

Complicating the picture is the fact that there is a division of opinion within each State on the question of controlling the liquor traffic. Different sections of a State . . . often have violently opposed ideas on the subject.

In an effort to take care of that, local option is entering into most of the control plans, so that communities can take liquor or leave it, according to local sentiment.

But assuming that each State works out a solution suitable to itself, then there arises the problem of making the whole national system click. Here is a question that is just coming into prominence.²²

Key lessons can be inferred from the post-Prohibition history of liquor regulation. Three major approaches stood the test of time, including one that has not been considered for cannabis. Ready licensing, state-owned outlets, and local option with local taxation made legally purchasing alcoholic beverages convenient for consumers while maintaining market oversight.

State-Issued Licenses. As with cannabis, many states permitted the manufacture and sale of alcoholic products by license, under the auspices of state liquor authorities. Some states, such as Massachusetts, limited (and continue to limit) the total number of such licenses, keying it to such factors as the population of a city or town.²³ The fact that illegal sale of alcoholic beverages is no longer a major problem, however, demonstrates that, to curb illegal sale of cannabis, a number of

licensees adequate to meet consumer demand must be authorized expeditiously.

Notably, however, arrests for bootlegging did not entirely disappear, as in Appalachia, where federal revenue agents (“revenooers”) pursued moonshiners. Indeed, pursuing illegal makers and sellers of alcoholic beverages was a key mandate of what is now the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF).

In other words, the end of Prohibition did not see law enforcement authorities unwilling to arrest those violating state laws. Over time, however, arrests for bootlegging have become vanishingly rare. A search for “bootlegging” on the ATF website produces only historical articles and cases of cigarette bootlegging. Indeed, in 2002, enforcing alcohol tax payment was removed from the ATF’s duties.²⁴ For illegal cannabis trafficking to wither away similarly, a period of pressure from authorities could be needed.

State-Owned Monopolies. Many states adopted another approach to regulating alcohol that has not been considered for cannabis: state-owned monopoly retailers. “State stores,” or “package stores,” are found in 17 so-called alcohol control states.²⁵ Large states including Ohio, Pennsylvania, and Michigan continue to own and operate liquor retail outlets.

These outlets are not hard to locate. In Pennsylvania alone, the Liquor Control Board operates 600 stores.²⁶ States that have been recalcitrant in issuing licenses to private cannabis enterprises may be more comfortable with widespread cannabis retail controlled directly by the state government (which, of course, would collect the cannabis retail sector’s profits).

Local Option. The third major approach adopted in the wake of Prohibition was local control. A key factor, however, distinguishes local option regarding liquor from that governing cannabis in some states: In 19 states, localities could levy liquor taxes over those of the state. Thus, municipalities that needed revenue, such as lower-income jurisdictions adjacent to higher-income ones, had an incentive to welcome liquor retailers.

For instance, numerous Illinois suburbs on Lake Michigan north of Chicago—including Evanston (birthplace of the pro-Prohibition Women’s Christian

Temperance Union), Highland Park, Kenilworth, Wilmette, and Winnetka—continued to ban the sale of liquor for decades after Prohibition’s repeal (in the case of Winnetka, until 1982).²⁷ Meanwhile, nearby municipalities including Highwood and Skokie permitted liquor retailers and benefited by attracting visitors from nearby dry suburbs.

Tobacco

The fact that much of cannabis is consumed through smoking marijuana cigarettes suggests a comparison to the tobacco market. Like cannabis, tobacco is restricted to adult purchasers, is used recreationally, and has unhealthy side effects. In contrast to cannabis licenses, however, tobacco retail licenses are extremely common; according to the Centers for Disease Control and Prevention (CDC), more than 380,000 licensed tobacco retailers are in the US and its territories.²⁸ License application fees are modest, ranging from \$6 in New Hampshire to \$800 in Connecticut.

High state taxes meant to bolster state revenues and discourage use of an unhealthy product (these goals sometimes conflict, of course) do lead to black markets in cigarettes—most notably via cross-state smuggling from low-tax to higher-tax states.²⁹ The number of such tax-avoiding cigarette sales pales, however, in comparison to the quantity of cannabis sales from unlicensed outlets. Moreover, cigarettes smuggled across state lines are brand-name products bought legally and manufactured for the legal market, with all the regulation that entails. This contrasts with the cannabis market, in which unlicensed outlets notoriously sell “gummies” and other “edibles” that are often packaged to resemble name-brand candy yet lack official verification of their safety and purity.

In other words, in contrast to marijuana, tobacco—a smokable, recreational drug with ill health effects that can be considered a close cousin of marijuana—has a black market only regarding tax avoidance rather than one in which unlicensed and un-vetted retailers distribute unlicensed products. Like post-Prohibition alcoholic beverages, tobacco products do not have a black market that poses significant concerns about public order, partially because of their ubiquitous availability.

Current and Potential Black-Market Control Efforts

Note that not all government efforts to limit the cannabis black market are proving ineffective. Washington state legalized cannabis earlier than other states did, and it imposes the highest cannabis taxes of any state in the nation.³⁰ Yet the legal market there is competitive with the black market, often offering lower prices.

A 2021 study found that 77 percent of consumers in Washington buy from a legal retailer and only 17 percent from the black market, while only one in three purchases in neighboring California is legal.³¹ A Reason Foundation study credits the fact that vertical integration of cannabis manufacture and sale is not permitted in Washington; those cultivating the drug must compete to find shelf space at retail outlets—and, as a result, must compete on price. In addition, new retailers do not face competition from already-licensed medical marijuana outlets and thus operate on a level playing field. All new licensees must compete for new, legal customers.

Overall, however, law enforcement appears overmatched by the cannabis black market, most notably in New York and California. The following are possible regulatory and enforcement approaches to rein in the problem.

State-Owned Retail Stores. No state is currently considering this approach for cannabis, notwithstanding its common use for liquor sales. To be sure, it is not the norm in the US for governments to operate retail businesses—nor should it be. However, the state government’s imprimatur may attract and reassure retail purchasers who, faced with a choice, would prefer to buy from a legal outlet. As in states with such systems for alcohol, the stores would need to be numerous and conveniently located.

The Tobacco Licensing Precedent. The example of tobacco suggests that rather than cracking down on illegal cannabis retailers, it may make sense simply to make licensing easier and more widespread, as with cigarettes. This would not necessarily imply a cannabis sales tax reduction; again, convenience and legality might convince consumers to overlook price differences between the legal and black markets.

Law Enforcement Crackdown. The near ubiquity of non-licensed cannabis outlets in New York City has inspired officials there to consider a new means to rapidly shut such businesses down. New York City Council Majority Leader Keith Powers has proposed local legislation to enable police to employ nuisance abatement laws to raid, cite, and quickly padlock illegal retailers, stating, “If the cops or somebody else walks in and they find that they’re actually selling illegal products, they will for the first time have the ability to close that business down and padlock it.”³²

Law enforcement professionals doubt that these and other crackdowns on what is now a legal product can be effective. Former New York City Police Commissioner William Bratton speculates, for instance, that a padlocked operation will quickly move to a vacant storefront, motivated by the potential profits. He is quick to note the limited manpower of any police force and the opportunity cost of deploying police to such ends, when they will inevitably be under pressure to deal with more urgent matters, such as violent crime.³³

Brandon del Pozo, the former chief of police of Burlington, Vermont—and a longtime New York City police officer—sees law enforcement as inappropriate for dealing with a product that can be sold legally.³⁴ He argues that enforcing cannabis laws consistently with liquor laws, for instance, requires agents from a regulatory authority, such as a state cannabis control agency, who would be analogous to agents from a state liquor authority. Police might accompany them on an enforcement action but would not be the primary agents.

Other law enforcement initiatives could include returning to criminal prosecutions for illegal drug distribution and robustly prosecuting illegal grow operations. Any law enforcement approach risks being limited, however, by the capacity of local police forces, which may be stretched thin for other reasons. Broadly, a return to criminal prosecutions—whether for distribution, sale, or possession of cannabis—risks undermining a key rationale for legalization: the belief that a war on drugs leads to mass incarceration. All these complications suggest that law enforcement does not offer a reliable approach to combating the cannabis black market.

Local Option Sales Taxes. The extent of “dry” cannabis jurisdictions—cities, towns, and counties opting

out of legalizing sale of the intoxicant—significantly inconveniences consumers in many areas. As with post-Prohibition liquor laws, this could change if localities had a financial incentive to opt in—that is, if they could retain some portion of the cannabis sales taxes.

As matters stand, states that have legalized cannabis set taxes at various levels based on percentage of price, weight, milligrams of THC, and other mechanics. It's self-evident that too high a tax will drive consumers to a black market, if that market is easily available. Inconvenience based on distance—a likely consequence of widespread local opting out—will do the same. Sales tax policy to date has focused on maximizing state and local tax revenue and often overlooks these dynamics.

If they are going to permit the sale of cannabis, local communities must see it as a revenue-raising proposition. This might be realized, for instance, by ending state taxes on cannabis, so that only local governments receive tax revenues. This would lower the overall sales tax and incentivize localities to accept cannabis sale. A local option tax levied over the state tax, as seen in some states, does not seem to be enough. California, for example, permits such taxes—including the unusual variation of permitting taxes on marijuana transported across locality borders—but that has not led to broader local opt-ins.³⁵ It may make sense, at least in the short term, for states to allow localities to retain all cannabis sales tax revenues.

To do this, states and localities across the country must adjust what is now a crazy quilt of differing state and local sales and excise taxes, shown in Table B1.

Tax Holiday. State cannabis legalization has confused motivations. On the one hand, it reflects a desire to decriminalize the drug's production and distribution—and, in the case of states including New York, to compensate with licenses those whom the ancien régime had incarcerated. On the other hand, states hope for revenue windfalls from cannabis sales taxes. The difference between resulting legal and illegal retail prices has sustained the black market. This suggests states should choose one goal over another: They should sacrifice tax revenue to drive out the black market.

This change need not be permanent. A yearlong tax holiday, for instance, could create new consumer habits, leading to a preference for legal outlets. This would work best if legal retailers were more widespread, which

could result from discouraging local opt-outs or rapidly increasing the number of licenses. Now may be an opportune time for such a holiday, as many cannabis businesses are reportedly struggling to sustain debts and face the possibility of bankruptcy due, partially, to high tax burdens.³⁶

Availability of Legal Cannabis. Note that, broadly, greater availability of legal cannabis appears to be correlated with a smaller black market. A 2022 study commissioned by a pro-cannabis group found a strong correlation between per capita cannabis store licenses and illicit marijuana sales.³⁷ In short: The more cannabis stores per capita, the fewer street dealers. The group has a clear interest in making cannabis a normal product; nonetheless, its findings comport with common sense.

Public Health

Keep in mind that the black market is not the only problem cannabis legalization poses. The rush to legalize has loosed an undeniably unhealthy product on the public. The CDC discusses many worrisome concerns including addiction, brain health issues, and mental health issues.³⁸ As the CDC describes:

- “Some people who use marijuana will develop marijuana use disorder, meaning that they are unable to stop using marijuana even though it's causing health and social problems in their lives.”³⁹
- “One study estimated that approximately 3 in 10 people who use marijuana have marijuana use disorder.”⁴⁰
- “Using marijuana before age 18 may affect how the brain builds connections for functions like attention, memory, and learning. Marijuana's effects on attention, memory, and learning may last a long time or even be permanent, but more research is needed to fully understand these effects. Youth who use marijuana may not do as well in school and may have trouble remembering things.”⁴¹
- “Marijuana use, especially frequently (daily or nearly daily) and in high doses, can cause

disorientation and sometimes unpleasant thoughts or feelings of anxiety and paranoia.

“People who use marijuana are more likely to develop temporary psychosis (not knowing what is real, hallucinations, and paranoia) and long-lasting mental disorders, including schizophrenia (a type of mental illness where people might see or hear things that are not really there). The association between marijuana and schizophrenia is stronger in people who start using marijuana at an earlier age and use marijuana more frequently.”⁴²

Marijuana use comes with numerous other dangers, including lung cancer, impaired driving, and the potential to be a gateway to other, more dangerous drugs.

Taxing cannabis, at least, provides ample funding that might mitigate some of these harms. Annual revenues in 2022 from such taxes ranged among states from \$20 million for New Jersey to \$1.12 billion for California, but many states can expect revenues to rise if consumers shift to the legal market.⁴³ Besides using these taxes on traditional government services, some states dedicate cannabis tax revenue directly to mitigating legalization’s harms on society:

Some states also dedicate revenue to government programs that can address marijuana’s negative externalities. Cannabis has known negative effects (including impaired decision-making and addiction) and documented benefits (alleviating chronic

pain and mitigating various diseases). Alaska, California, Illinois, Montana, New York, Oregon, and Washington use a portion of their cannabis tax revenue to fund programs for substance abuse and drug education and prevention.⁴⁴

Indeed, a New York University study has suggested dedicating 25 percent of cannabis tax revenue to mental health treatment, especially resources for treating psychosis, partially to balance the burden of legalization.⁴⁵

Conclusion

The prudence of legalizing cannabis has become moot in many states. There is no obvious way of going back. Instead, policymakers’ goals should be at least two-fold: (1) Bring the black market—which sells impure versions of the drug and undermines the rule of law—under control, and (2) discourage the overall use of the drug, especially among teens and young adults. The situation—especially given the alarming increase in drug overdose deaths in the US—cries out for a public health campaign akin to those undertaken to discourage cigarette smoking.

History and common sense offer alternative approaches to control the cannabis black market. Discouraging marijuana use will require an attitude change in the government. To both shutter the marijuana black market and drive down overall demand for the drug, there is an urgent need for action.

About the Author

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Appendix A

Table A1. Cannabis Retail Licenses per 100,000 People, by State, 2023

State	Year Legalized, Medical	Year Legalized, Recreational	Licenses Issued	Population, 2023	Licenses per 100,000 Residents
New Mexico	2007	2021	1048	2,114,371	49.57
Montana	2004	2020	428	1,132,812	37.78
Oregon	1998	2014	830	4,233,358	19.61
Maine	1999	2016	195	1,395,722	13.97
Vermont	2004	2020	72	647,464	11.12
Alaska	1998	2014	60	733,406	8.18
Michigan	2008	2018	734	10,037,261	7.31
Washington	1998	2012	512	7,812,880	6.55
Massachusetts	2012	2016	433	7,001,399	6.18
Colorado	2000	2012	358	5,877,610	6.09
California	1996	2016	1692	38,965,193	4.34
Nevada	1998	2016	100	3,194,176	3.13
Arizona	2010	2020	168	7,431,344	2.26
Connecticut	2012	2021	72	3,617,176	1.99
Maryland	2013	2022	101	6,180,253	1.63
Illinois	2013	2019	169	12,549,689	1.35
New Jersey	2010	2020	63	9,290,841	0.68
Rhode Island	2006	2022	7	1,095,962	0.64
New York	2014	2021	59	19,571,216	0.30
Missouri	2018	2022	2	6,196,156	0.03

Source: New Mexico Regulation and Licensing Department, Cannabis Reporting Online Portal (CROP), January 1, 2024, <https://crop.rld.nm.gov/dispensaries.html>; Montana Department of Revenue, Cannabis Control Division, "Dispensary Licenses," <https://mtrevenue.gov/cannabis/cannabis-licenses/dispensary-licenses>; Oregon Liquor and Cannabis Commission, "Marijuana Licensing Reports," <https://www.oregon.gov/olcc/marijuana/Pages/Recreational-Marijuana-Licensee-Reports.aspx>; Maine Department of Administrative and Financial Services, Office of Cannabis Policy, Adult Use Data, January 2, 2024, <https://www.maine.gov/dafs/ocp/open-data/adult-use>; Vermont Cannabis Control Board, *Executive Director Report*, November 29, 2023, <https://ccb.vermont.gov/sites/ccb/files/2023-11/Board.Meeting.November.29.2023.pdf>; Alaska Department of Commerce, Community, and Economic Development, Alcohol & Marijuana Control Office, License Search, <https://www.commerce.alaska.gov/abc/marijuana/Home/licensesearch>; Michigan Cannabis Regulatory Agency, "Cannabis Regulatory Statistical Report," <https://www.michigan.gov/cra/resources/cannabis-regulatory-agency-licensing-reports/cannabis-regulatory-agency-statistical-report>; Washington State Liquor and Cannabis Board, "Frequently Requested Lists," <https://lcb.wa.gov/records/frequently-requested-lists>; Massachusetts Cannabis Control Commission, "Licensing Tracker," <https://masscannabiscontrol.com/licensing-tracker>; Colorado Department of Revenue, Specialized Business Group, "MED Licensed Facilities," <https://sbg.colorado.gov/med/licensed-facilities>; California Department of Cannabis Control, Cannabis Unified License Search, January 12, 2024, <https://search.cannabis.ca.gov>; Nevada Cannabis Compliance Board, "Nevada Cannabis Licensees," January 9, 2024, <https://ccb.nv.gov/list-of-licensees>; Arizona Department of Health Services, Division of Licensing, AZ Care Check, <https://azcarecheck.azdhs.gov>; Connecticut, "Available Rosters for Download," <https://www.elicense.ct.gov/Lookup/GenerateRoster.aspx>; Maryland Cannabis Administration, "Dispensary Information," <https://mmcc.maryland.gov/Pages/Dispensaries.aspx>; Illinois Cannabis Regulation Oversight Officer, Dispensary Locations, <https://cannabis.illinois.gov/about/locations.html>; New Jersey Office of Information Technology, Open Data Center, "New Jersey Medicinal & Recreational Dispensaries," <https://data.nj.gov/stories/s/sgm4-mpw>; Rhode Island Department of Business Regulation, "Licensed Compassion Centers," <https://dbr.ri.gov/office-cannabis-regulation/compassion-centers/licensed-compassion-centers>; New York Office of Cannabis Management, "Dispensary Location Verification," <https://cannabis.ny.gov/dispensary-location-verification>; Missouri Department of Health and Senior Services, "Licensed Facilities," <https://health.mo.gov/safety/cannabis/licensed-facilities.php>; and MJBizDaily, "Where Marijuana Is Legal in the United States," November 13, 2023, <https://mjbizdaily.com/map-of-us-marijuana-legalization-by-state>.

Appendix B

Table B1. Retail Cannabis Tax Regimes for States with Legal Recreational Cannabis, 2024

	State General Sales Tax	State Percentage-of-Price Tax		State Tax, per Ounce		State Tax, per Milligram of THC		Local General Sales Tax	Other Local Cannabis Taxes
	Paid by Retailers	Paid by Cultivators	Paid by Retailers	Paid by Cultivators	Paid by Retailers	Paid by Cultivators	Paid by Retailers		
Alaska	—	—	—	\$50.00	—	—	—	Yes	Yes
Arizona	—	16%	—	—	—	—	—	Yes	No
California	7.25%	—	15%	—	—	—	—	Yes	Yes
Colorado	—	—	15%	\$7.03	—	—	—	Yes	Yes
Connecticut	6.35%	—	—	—	—	\$0.00625	—	No	Yes
Delaware	—	—	15%	—	—	—	—	No	No
Illinois	—	7%	10–25%	—	—	—	—	Yes	Yes
Maine	—	—	10%	\$20.00	—	—	—	No	No
Maryland	6%	—	9%	—	—	—	—	No	No
Massachusetts	6.25%	—	10.75%	—	—	—	—	No	Yes
Michigan	6%	—	10%	—	—	—	—	No	No
Minnesota	—	—	10%	—	—	—	—	Yes	No
Missouri	—	—	6%	—	—	—	—	No	Yes
Montana	—	—	20%	—	—	—	—	No	Yes
Nevada	6.85%	—	10%	\$15.19	—	—	—	Yes	Yes
New Jersey	6.625%	—	—	\$1.10	—	—	—	No	Yes
New Mexico	5%	—	12%	—	—	—	—	Yes	No
New York	—	—	9%	—	—	—	\$0.05	No	Yes
Ohio	5.75%	—	10%	—	—	—	—	Yes	No
Oregon	—	—	17%	—	—	—	—	No	Yes
Rhode Island	7%	—	10%	—	—	—	—	No	Yes

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Vermont	6%	—	14%	—	—	—	—	Yes	No
Virginia	5.3%	—	21%	—	—	—	—	Yes	Yes
Washington	6.5%	—	37%	—	—	—	—	Yes	No

Note: Dashes indicate that the state has no tax in the relevant category. Percentages represent a percentage of the sale price for all states except for Colorado and Nevada, which levy taxes based on an artificial price, as described below. When states charge different rates depending on the type of product, the rate given in the table is for flower, the part of the cannabis plant containing the highest concentration of cannabinoids. This table tracks the taxation only of recreational marijuana, which in several states faces a different tax regime than medical marijuana does.

Source: Richard C. Auxier and Nikhita Airi, *The Pros and Cons of Cannabis Taxes*, Tax Policy Center, September 28, 2022, <https://www.taxpolicycenter.org/publications/pros-and-cons-cannabis-taxes/full>; Urban Institute, “State and Local Backgrounders: Cannabis Taxes,” <https://www.urban.org/policy-centers/cross-center-initiatives/state-and-local-finance-initiative/state-and-local-backgrounders/marijuana-taxes>; USA Facts, “How Much Revenue Do States Make from Marijuana Taxes?,” October 4, 2023, <https://usafacts.org/articles/how-much-revenue-do-states-make-from-marijuana-taxes/>; Colorado Department of Revenue, Taxation Division, “Average Market Rate for Unprocessed Retail Marijuana,” <https://tax.colorado.gov/average-market-rate>; Minnesota Department of Revenue, “Cannabis Tax,” <https://www.revenue.state.mn.us/cannabis-tax>; and Nevada Department of Taxation, “Wholesale Cannabis Tax Return,” [https://tax.nv.gov/uploadedFiles/taxnv.gov/Content/Forms/EXC-F069%20Wholesale%20Cannabis%20Return%201-1-24%20to%203-31-24\(2\).pdf](https://tax.nv.gov/uploadedFiles/taxnv.gov/Content/Forms/EXC-F069%20Wholesale%20Cannabis%20Return%201-1-24%20to%203-31-24(2).pdf).

Table B1 provides key information on the taxes levied on recreational cannabis by each state where it can be legally sold. Below is a breakdown of the additional features of individual states’ tax regimes.

Local Taxes

In Alaska, local cannabis taxes can include excise taxes, sales taxes, per-ounce taxes, and general sales taxes.

California localities can levy cannabis taxes including excise taxes, gross receipts taxes, taxes by square feet cultivated, and general sales taxes.

In Illinois, municipalities can levy a cannabis tax of up to 3 percent of sales, and counties can levy a tax of up to 3.75 percent; when municipal and county cannabis sales taxes overlap, counties may levy a tax of only up to 3 percent of sales, for a total cap of 6 percent of sales on both local taxes. Illinois localities can also levy general sales taxes on marijuana.

Massachusetts, Missouri, Montana, Oregon, and Rhode Island limit local cannabis retailer taxes to 3 percent of the retail price of each sale, and localities in these states do not levy any local sales taxes. Colorado and Virginia limit local cannabis retailer taxes to 3 percent of sales, and in each state, marijuana is also subject to local general sales taxes. New York limits cannabis retailer taxes to 4 percent of sales and exempts marijuana from local general sales taxes.

New Jersey localities can levy a 2 percent tax on gross receipts of cannabis sales, which they may apply at multiple points in the supply chain, potentially taxing the same product multiple times; localities in New Jersey do not levy any general sales taxes.

Taxation Varying by Product Type

Alaska, in addition to a \$50-per-ounce tax on marijuana flower, has a tax of \$25 per ounce for immature flower and \$15 per ounce for trims.

Colorado and Nevada create artificial prices based on average market rates when calculating their weight tax, which allows them to tax transfers of marijuana product across vertically integrated marijuana enterprises. Both states levy a tax of 15 percent of their artificial prices, which are regularly recalculated. Colorado currently calculates these artificial prices for January 1 through March 31, 2024, at \$750 per pound for retail flower, \$304 per pound for retail trim, \$15 per plant for retail immature plant, \$10 per pound for wet whole plant, \$9 per seed for marijuana seed, \$30 per pound for trim allocated for extraction, and \$250 per pound for bud allocated for extraction. Nevada calculates artificial prices at \$1,620 per pound for cannabis flower, \$1,291 per pound for small or popcorn bud, \$204 per pound for trim, \$51 per plant for immature cannabis plants, \$2,041 per pound for pre-rolled cannabis cigarettes, \$200 per pound for unsalable flower approved

for extraction, and \$200 per pound for unsalable trim approved for extraction.

Connecticut charges cannabis taxes of \$0.00625 per milligram of THC for cannabis flower products, \$0.0275 per milligram of THC for cannabis edibles, and \$0.009 per milligram of THC for all other cannabis products.

New York, in addition to a tax of \$0.05 per milligram of THC for cannabis flower, levies a tax of \$0.08 per milligram of THC for cannabis concentrates and \$0.03 per milligram of THC for cannabis edibles.

Other Complex State Tax Regimes

In Illinois, the percentage-of-price tax on marijuana cultivators applies to only the first sale of each quantity of marijuana. The cannabis retail percentage-of-price tax

is based on THC, as follows: 10 percent for products with THC levels at or below 35 percent, 25 percent for products with THC levels above 35 percent, and 20 percent for cannabis-infused products.

New Jersey's Cannabis Regulatory Commission may periodically adjust the per-ounce tax on cannabis, with the average retail price in the state limiting the rate they may choose, as follows: up to \$10 per ounce if retail prices are greater than \$350 per ounce, up to \$30 per ounce if retail prices are \$250 to \$350 per ounce, up to \$40 per ounce if retail prices are \$200 to \$250 per ounce, and up to \$60 per ounce if retail prices are less than \$200 per ounce. This structure is intended to keep taxes low while the legal cannabis industry establishes itself and allow the legal industry to compete with the black market while allowing future tax hikes on the mature industry without further legislation.

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